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James M. Iwanicki, P.E.
Engineer-Manager

July 5, 2012

Ms. Tinka Hyde, Director, Water Division
EPA Region 5
77 West Jackson Boulevard
Chicago, IL 60604-3590

Re: Public Notice No. 11-52-0075-P, Marquette County Road Commission Proposed CR 595

Dear Ms. Hyde:

We very much appreciated your field visit along with Ms. Melanie Haveman and Steve Casey on Friday, June 29, 2012 in regard to the proposed CR 595 (MDEQ File No. 11-52-0075-P) and involved a productive exchange of comments and concerns about this important project. Although you indicated that no EPA decision has been made, the message that we received from this meeting was that EPA is not in a position to commit at this time to remove its formal objection to the issuance of the permit by the Michigan Department of Environmental Quality (MDEQ). In fact if we understood correctly, we were advised that we may not receive any more formal communication from EPA prior to the expiration of the 90-day deadline of July 22, 2012.

We remain hopeful that, once you and your staff review the large amount of information that we have submitted since the filing of the EPA objection, you will decide that the reasons for the EPA objection have been appropriately addressed in order to allow you to remove the objection. We understand that your decision could be accompanied by additional items that would need to be addressed (e.g. revisions to the proposed mitigation plans). That being said, we wanted to once again take this opportunity to express our reasons for MCRC selecting the proposed CR 595 as the most practicable alternative to meet the project purpose, and to make a plea that EPA not let this opportunity for a significant and needed infrastructure project that will benefit the economy of the northwestern U.P. be unrealized.

Apparently EPA remains of the position that the CR 510/Red Road/Sleepy Hollow alternative could be the most practicable alternative for this project. However, CR 510/Red Road is not acceptable to Marquette County Road Commission and Kennecott Eagle Minerals Company and will not be constructed even if permitted because it does not meet the project purpose and is not practicable. We respectfully request that you consider the following critical facts that are included in the documents that have been submitted for this project:

- The CR 510/Red Road/Sleepy Hollow alternative would directly impact 23.19 acres of wetland compared to 23.96 acres of direct wetland impact for the proposed CR 595 (24.32 acres if the Trail 5 snowmobile trail relocation and Triple A Road relocation are

included). Please note that in our original application for permit we had estimated that the CR 510/Red Road/Sleepy Hollow alternative would directly impact approximately 13 acres of wetland based upon preliminary planning-level engineering; however since the date of that original submittal the Coleman Engineering has conducted more detailed engineering based on extensive field survey work and topographic mapping at a level consistent with that done on CR 595 and more accurately calculated the wetland impacts to be the 23.19 acres. These new calculations are a part of the materials that have been filed with the responses to agency questions.

- Using the same north and south terminus for this project, the CR 510/Red Road/Sleepy Hollow alternative is 40.5 miles in length; as compared to 20.9 miles for CR 595. This additional 19.6 miles of roadway would place a burden on the Marquette County Road Commission for maintenance and is not practicable in terms of additional transportation costs that would be accrued by users of the road for travel from "point A to point B"; be it loggers, miners, or recreationists.
- The CR 510/Red Road/Sleepy Hollow alternative would cost \$32M more to construct than CR 595 (\$115M as compared to \$83M).
- As with the wetland impacts described above, the impacts from stream crossings are not substantially different between the two routes. CR 595 has 25 stream crossings proposed; 17 of which are existing stream crossings that would be upgraded. The CR 510/Red Road alternative has 33 stream crossings; 27 of which are existing stream crossings that would be upgraded. However, the CR 510/Red Road route would enclose an additional 620 linear feet of stream as compared to CR 595.

In addition, we have worked closely with MDEQ and its mitigation standards in regard to the submittal of the proposed revised mitigation plan that was recently developed and presented in our June 28, 2012 revised submittal. We have conducted a significant amount of field work and office preparation for this revised mitigation plan, which involves the agency-preferred method of wetland preservation as the mechanism for wetland mitigation (in this case) and significant stream restoration projects for stream mitigation. Our understanding at this point is that our (June 28, 2012) wetland mitigation/preservation approach is not what EPA currently considers adequate under these circumstances. Please be advised that we are currently considering the potential of presenting other preservation sites that we hope will meet with EPA approval.

In summary, if EPA does not remove its objection to the issuance of an MDEQ permit for the proposed CR 595, an opportunity for a private entity, Kennecott Eagle Minerals Company, (KEMC) to pay the cost for a critically needed public road will be lost. Marquette County cannot afford to build this road; that is one of the reasons why it has never been built. KEMC will not pay for the CR 510/Red Road/Sleepy Hollow alternative route due to an unfavorable cost/benefit analysis, and Marquette County Road Commission considers the CR 510/Red Road/Sleepy Hollow route a "no-build" alternative, as stated in our application for permit.

The only other practicable route for KEMC to fund would be CR 550 to US-41 through the communities of Marquette, Negaunee, and Ishpeming, a route that is opposed by all local units of government. The expenditure of \$32M to save 1.13 acres of wetland does not seem practicable to us.

In the 404(b)(1) Guidelines, the term "practicable" depends on cost, technical and logistic factors. Technical and logistic factors that should be considered include access, transportation needs, utilities, topography, and available construction techniques. In the context of alternatives analysis the agency recently repeated its view that---

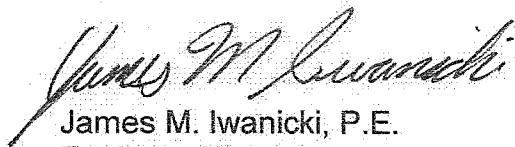
a reasonable, common sense approach in applying the requirements of the Guidelines' alternatives analysis is fully consistent with sound environmental protection. The Guidelines clearly contemplate that reasonable discretion should be applied based on the nature of the aquatic resource and potential impacts of a proposed activity in determining compliance with the alternatives test. Such an approach encourages effective decision making and fosters a better understanding and enhanced confidence in the Section 404 program. (Memorandum: appropriate level of analysis required for evaluating compliance with the Section 404 (b)(1) guidelines alternatives requirements.)

Those factors should be considered in determining that CR 510/Red Road/ Sleepy Hollow was not a practicable alternative. The preamble to the guidelines makes clear that a certain amount of flexibility is intended. We believe it is reasonable to find that this alternative is not practicable.

We sincerely appreciate the fact that you came to Marquette County so that we might have the opportunity to meet with you and Melanie, and that you could at least see some portions of the CR 595 route. We are very hopeful that your upcoming review of the materials we submitted on June 28, 2012 in combination with the results of your site assessment will result in the removal of your objection to issuance of the MDEQ permit.

Thank you for your consideration.

Sincerely,



James M. Iwanicki, P.E.
Engineer-Manager

Cc: Ms. Susan Hedman, EPA (By Email Only)
Ms. Melanie Haveman, EPA (By Email Only)
Mr. Steve Casey, MDEQ (By Email Only)